

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

ROSS HUNTINGFORD,

Plaintiff,

vs.

No. 17-1210

PHARMACY CORPORATION OF AMERICA
D/B/A PHARMERICA,

Defendants.

DEFENDANT PHARMERICA'S NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Pharmacy Corporation of America d/b/a PharMerica ("PharMerica"), by and through undersigned counsel, hereby submits this Notice of Removal of the above-entitled action from the Second Judicial District Court for the County of Bernalillo in the State of New Mexico to the United States District Court for the District of New Mexico. By this petition, PharMerica gives notice of the removal of this action. This notice of, and petition for, removal is made pursuant to 28 U.S.C. §§ 1441, *et seq.*, and is proper and appropriate based upon the following:

1. On November 7, 2017, Plaintiff Ross Huntingford ("Plaintiff") filed a Complaint in the Second Judicial District Court of New Mexico for the County of Bernalillo, entitled *Ross Huntingford v. Pharmacy Corporation of America D/B/A PharMerica*, case number D-202-CV-2017-08042 ("Complaint"). A copy of the Complaint is attached as Exhibit A.
2. The first date upon which PharMerica was served a copy of the Complaint was November 9, 2017. A copy of the Summons served upon PharMerica and the Affidavit of Service dated November 9, 2017 are attached as Exhibit B. This Notice of Removal is timely filed with this Court within thirty (30) days after service of Plaintiff's Summons and Complaint on PharMerica.

3. Based on the allegations contained in the Complaint, the above-entitled action is a civil suit of which this Court has original jurisdiction under 28 U.S.C. § 1332 (diversity jurisdiction).
4. The District Court of Arizona is the United States District Court for the district and division embracing the state court where this action was filed and is pending. Venue is proper in this Court under 28 U.S.C. § 1441(a).
5. Plaintiff is a resident of the State of New Mexico and is therefore a citizen of New Mexico.
6. PharMerica is a California corporation with its principal place of business in Louisville, Kentucky. It is a citizen of California and Kentucky.
7. Complete diversity exists because PharMerica is a citizen of a state other than New Mexico.
8. During all relevant times, Plaintiff alleges it entered a contract with PharMerica to sell various assets belonging to PharmaCare, a New Mexico Corporate with Plaintiff acting as its sole shareholder.
9. Plaintiff further alleges that it was entitled to receive a “deferred payment” pursuant to the terms of the contract, with a maximum deferred payment of \$1,250,000.00.
10. Plaintiff seeks compensatory damages in excess of \$75,000.00.
11. PharMerica voluntarily appears in this action for purposes of removal but reserves all objections, arguments, and defenses to Plaintiff’s Complaint. Thus, this Notice of Removal is filed subject to and with reservation of rights by PharMerica including, but not limited to, defenses and objections to venue, improper service of process, personal jurisdiction, and any other defenses PharMerica might pursue. A response, pleading, or motion will be filed in accordance with Rule 81, Fed. R. Civ. P.

12. A copy of this Notice will be filed this date with the Clerk of the Second Judicial District Court of New Mexico for the County of Bernalillo, and a copy of this Notice was mailed this date to Plaintiff.

13. Pursuant to 28 U.S.C. § 1446(a) and D.N.M.LR-Civ. 81.1(a), undersigned counsel hereby certifies that the documents attached hereto include true and complete copies of all documents filed in the Second Judicial District of New Mexico for the County of Bernalillo.

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH

/s/ Stephen Hoffman

Stephen Hoffman

Laura Ackermann

Attorneys for Defendant

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Phoenix, AZ 85012

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I HEREBY CERTIFY on December 8, 2017, a true copy of the foregoing pleading was mailed to counsel of record as well as filed electronically through the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to counsel of record as follows:

Michelle A. Hernandez

Dominic A. Martinez

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